

UNITED STATES DISTRICT COURT

for the

DISTRICT OF NEW MEXICO

FILED
United States District Court
Albuquerque, New Mexico
Mitchell R. Elfers
Clerk of Court

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)
IN THE MATTER OF THE SEARCH OF:

Person of Michelle Bahe, Year of birth 1987

Case No. 24-MR-357

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):
See attachment A, attached hereto and incorporated herein.

located in the District of New Mexico, there is now concealed (identify the person or describe the property to be seized):
See attachment B, attached hereto and incorporated herein.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section

Offense Description

18 U.S.C. §§ 2111 and 1153: Robbery offense committed within Indian country

The application is based on these facts:

See attached Affidavit in Support of an Application for a Search Warrant, attached hereto and incorporated herein, submitted by SA Andrew Wright and approved by AUSA Timothy Trembly.

☒ Continued on the attached sheet.

☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Andrew Wright

Applicant's signature

Wright, Andrew Lee (AQ) (FBI), Special Agent

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by

Sworn telephonically and signed electronically

(specify reliable electronic means).

Date: 2/27/2024

City and state: Farmington, NM

B. Paul Briones

Judge's signature

B. Paul Briones, Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

IN THE MATTER OF THE SEARCH OF:

Person of Michelle Bahe, Year of birth 1987

Case No.

**AFFIDAVIT IN SUPPORT OF AN APPLICATION UNDER RULE 41
FOR A WARRANT TO SEARCH AND SEIZE**

1. I, Andrew Wright, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

2. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant to search the body of Michelle Bahe (born in 1987), to collect photographs of her tattoos.

3. I am a Special Agent of the Federal Bureau of Investigation (“FBI”), where I have been employed in that capacity since December 2020. I am currently assigned to the Albuquerque Division of the FBI, Farmington Resident Agency, and have primary investigative responsibility for crimes that occur in Indian Country, including violent crimes such as homicide, robbery, arson, aggravated assault, and sexual assault. My law enforcement experience includes, but is not limited to, collecting evidence, interviewing subjects and witnesses, writing affidavits for and executing search warrants, conducting surveillance, supervising cooperating sources, issuing subpoenas, analyzing phone records, and analyzing financial records. I am trained and have experience in the investigation of murder, assault, sex abuse, and other violent crimes.

PURPOSE OF AFFIDAVIT

4. Based on the facts set forth in this affidavit, there is probable cause to believe that a violation of 18 U.S.C. §§ 2111 and 1153: Robbery offense committed within Indian country, (the “Target Offense”) has been committed, is being committed, and/or will be committed by MICHELLE BAHE (referred to hereinafter as “BAHE”). There is also probable cause to search the person described in Attachment A for evidence of the crime further described in Attachment B.

5. This Affidavit is intended to show merely that there is sufficient probable cause for the requested warrants and does not set forth all of my knowledge about this matter. The facts set forth in this affidavit are based upon my personal observations, my training and experience, and information obtained from various law enforcement personnel and witnesses. I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary for the limited purpose of establishing probable cause to conduct a search of and for the items described in Attachments A and B for evidence of the criminal conduct described herein. Additionally, unless otherwise indicated, wherever in this Affidavit I assert that an individual made a statement, that statement is described in substance herein and is not intended to be a verbatim recitation of such statement. Furthermore, unless otherwise indicated, all statements contained in this Affidavit are summaries in substance and in part. The following is true to the best of my knowledge and belief.

STATUTORY AUTHORITY

6. Title 18 U.S.C. § 2111, Robbery Special maritime and territorial jurisdiction, is provided below:

Whoever, within the special maritime and territorial jurisdiction of the United States, by force and violence, or by intimidation, takes or attempts to take from the person or presence of another anything of value, shall be imprisoned not more than fifteen years.

TERRITORIAL JURISDICTION MATTERS

7. Title 18 U.S.C. § 1153(a) - Offenses committed within Indian country provides the following definition for jurisdiction:

- a. “Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, maiming, a felony under chapter 109A, incest, a felony assault under section 113, an assault against an individual who has not attained the age of 16 years, felony child abuse or neglect, arson, burglary, robbery, and a felony under section 661 of this title within the Indian country, shall be subject to the same law and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

8. After a review of the Certificates of Navajo Blood for BAHE and JANE DOE (Jane Doe is the identified victim of the robbery, whose identity is known to law enforcement, but referred to as a pseudonym throughout the affidavit to protect her identity), both were identified as enrolled members of the Navajo Nation Indian tribe, a federally recognized tribe. They are therefore Indians for purposes of Federal law.

9. The crime described in this affidavit occurred at the North Sinclair Gas Station in Shiprock, New Mexico 87420, GPS Coordinates of N 36 47.049’, W 108 40.533 (referred to hereinafter as “Sinclair”). I reviewed the land status verification report from the Navajo Nation, which reflected the above coordinates were determined to be on Navajo Nation Trust Land. The Sinclair is within boundaries of the Navajo Nation Indian Reservation, which is Indian Country for purposes of Federal law.

PROBABLE CAUSE

10. On or about November 11, 2022, Navajo Police Officer Gregory Benally responded to the report of a robbery which took place at the Sinclair gas station. Officer

Benally met with and interviewed Jane Doe. Jane Doe provided the following information to Officer Benally: Jane Doe was working at the Sinclair Gas Station. Jane Doe observed an unknown female going back and forth in the store who kept looking at Jane Doe. The unknown female approached the counter and asked for cigarettes. The unknown female was wearing a hoodie, long pants, and a face mask. Jane Doe ran the driver's license provided to her by the unknown female. The date of birth on the driver's license reflected 10/13/1987. The identification photo showed a female with short hair. The unknown female then came around the counter and had a large knife in her hand. The unknown female then threatened Jane Doe with a knife and demanded Jane Doe to empty the cash register. Jane Doe complied with the request. The unknown female then took money and left the store. The unknown female then departed the location in a gold 4 door Chevrolet Cruze.

11. On or about February 17, 2023, Navajo Police Criminal Investigator interviewed MELINDA THARPE (referred to hereinafter as "THARPE"), store manager for the Sinclair, regarding a follow up incident to the robbery. THARPE provided the following information: On or about January 16, 2023, Jane Doe observed the same unknown female inside the Sinclair. The unknown female purchased cigarettes. The unknown female's identification card was scanned and Jane Doe noted the name and date of birth on the identification card provided. The identification card bore the name Michelle R. Bahe, Date of birth 10/13/1987.

12. I reviewed the surveillance videos from the robbery. I observed the unknown female offender in the robbery described by Jane Doe had very distinctive tattoos on her right hand and wrist.

13. Based on my training and experience and familiarity with investigations into robbery, and my discussions with other trained law enforcement officers, I know the following:

- a. Tattoos are often one mean that can be used to identify individuals involved in criminal investigations. Tattoos can be used to compare surveillance photos or videos to assist in providing a positive identification of parties involved in criminal investigations.
- b. Individuals with tattoos often will maintain their tattoos for indefinite amounts of time. This is due to their emotional connections to them, the expense associated with altering or remove the tattoos, and/or their permanent nature.

14. Further, there is probable cause to believe that evidence of this crime is currently stored on the person who is described in Attachment A of this affidavit. Rule 41 of the Federal Rules of Criminal Procedure authorizes the government to detain the person described in Attachment A for a reasonable time, in order to examine, analyze, and photograph that evidence.

CONCLUSION

15. Based on the foregoing, your affiant submits that there is probable cause the above described individual has committed violations of 18 U.S.C. §§ 2111 and 1153: Robbery offense committed within Indian country, and in light of the above information, there is probable cause to believe that obtaining photographs of Bahe's arms is necessary in order to verify the identification of the female in the surveillance video.

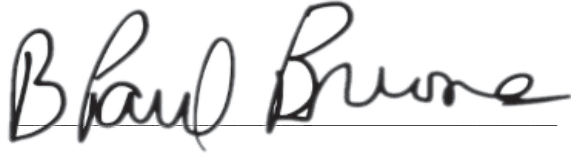
16. Your affiant therefore requests that the attached warrant be issued authorizing the search of MICHELLE BAHE, the person described in Attachment A, for evaluation of MICHELLE BAHE's tattoos, described in Attachment B, by reasonable means, including force if necessary.

Respectfully submitted,

Andrew Wright
Special Agent

Federal Bureau of Investigation

Sworn telephonically, signed remotely, and transmitted by email this 27th day of February, 2024.

A handwritten signature in black ink, reading "B. Paul Briones", written over a horizontal line.

B. Paul Briones
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

1. The person of MICHELLE BAHE, date of birth 10/13/1987, social security number 585-67-6615, a Native American female.



ATTACHMENT B

1. Photographs of the tattoos on the body of MICHELLE BAHE, who is described in Attachment A.